THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.16722 of 2004

and

Contempt Case No.1481 of 2005

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Dated: 17.04.2006

Between:

K. Linga Swamy, S/o Pedda Ankanna, R/o Pratakota village, Pagidala Mandal and others.

.... PETITIONERS

AND

The Govt. of A.P., rep. by its Secretary, I & CAD (PW)

Department, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.16722 of 2004

and

Contempt Case No.1481 of 2005

Common Order:

At the request of both the counsel, the main Writ Petition as well as the Contempt Case is taken up for disposal.

The petitioners, who are 22 in number, filed the writ petition for the following relief.

> "It is prayed that the Hon'ble Court may be pleased to issue a writ, order or direction particularly one in the nature of writ of mandamus declaring the action of the respondents in not reserving the 50% of the vacancies to the

eligible displaced persons of categories equivalent to Junior Assistant/Typist and cadre below arising in Srisailam Power Project in terms of G.O. Ms. No. 98, dated 15.04.1986 as totally illegal and without jurisdiction and violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondents to fill up the vacancies to the extent of 50% in respect of categories equivalent to Junior Assistants, Typists and below cadres in terms of G.O. Ms. No. 98, dated 15.04.1986 and in the light of the judgment of this Court in W.P. No.21272 of 1994, dated 24.11.1995."

The petitioners are the displaced persons whose lands were acquired for the purpose of construction of Srisailam Major Irrigation and Power Project. The grievance of the petitioners is that though G.O. Ms. No. 98, dated 15.04.1986 directed both Irrigation and Power Project authorities to reserve 50% of the vacancies in the categories equivalent to that of Junior Assistants/Typists and Cadre below, the respondents are not implementing the said G.O for providing employment to them under Srisailam Power Project.

This Court, on 20.04.2005, in W.P.M.P. No. 21845 of 2004 passed the following interim order.

"It is brought to my notice that this Court allowed similar W.P. No. 21272 of 194, dated 24.11.1995 and W.P. No. 20342 of 1995, dated 09.10.1995 directing the respondents therein to implement the G.O. Ms. No. 98 by maintaining 50% reservation to the displaced persons in the existing posts and in case the excess recruitment had already taken from the outside quota, the respondents shall consider the case of the displaced persons alone until the balance is reached between the displaced persons and outside candidates.

In the counter, it is stated that the petitioners at Sl.Nos.2, 11, 13, 15, 17 and 19 have not applield for a job within the stipulated time and the other petitioners are waiting for their turn as per the seniority list maintained in the office of the Superintending Engineer, Dam Maintenance Circle (I&CAD) Department, NSRS Project, Srisailam Dam East.

Having regard to the facts and circumstances of the case, I am of the prima facie opinion that the A.P. Genco, which has stepped into the shoes of the erstwhile A.P.S.E.B., is liable to implement the G.O.Ms. No. 98, dated 15.04.1986.

Hence, there shall be interim direction as prayed for in respect of the petitioners other than at Sl.Nos.2, 11, 13, 15, 17 and 19."

In pursuance of the said interim direction, the impugned order dated 13.09.2005 came to be passed. In the impugned order, respondent Nos.5 and 6 have taken a stand that since the land was acquired by the Irrigation and CAD Department for the purpose of construction of Srisailam Dam, and as the Superintending Engineer,

Dam Maintenance Circle, NSRS Project, Srisailam Project is maintaining the seniority list, the claims for providing employment as per G.O. Ms. No.98, dated 15.04.1986 in APGENCO cannot be considered, and the same has to be considered by the Irrigation Department alone. In view of the said impugned order passed by respondent Nos.5 and 6, the petitioners filed the Contempt Case No.1481 of 2005 contending that the respondents willfully disobeyed the orders of this Court passed in WPMP No. 21845 of 2004 in W.P. No. 16722 of 2004, dated 20.04.2005.

When the matter came up for hearing on last occasion i.e., on 28.03.2006, the Secretary, Irrigation Department, appeared before this Court and stated that the orders issued by the Government in G.O. Ms. No.98, dated 15.04.1986 do not apply to power projects and the Department of Energy has to clarify the question as to whether the said G.O is applicable to the power projects or not. On the other hand, learned Standing Counsel appearing for AP GENCO has taken a stand that the said G.O has no application to their Department. In view of the conflicting stands taken by the Irrigation Department and AP GENCO, this Court directed the Secretary in the Energy Department, to appear in person before this Court and explain the stand of the Energy Department about the application of G.O. Ms. No.98, dated 15.04.1986 particularly with reference to the cases of land oustees of Srisailam Hydro Electric Project.

When the matter is taken up for hearing today, learned Advocate-General appeared on behalf of respondent Nos.2, 5 and 6 and made a statement that the stand taken by the learned Standing Counsel for AP GENCO is not correct and submitted that G.O. Ms. No.98, dated 15.04.1986 issued by the Government is applicable to the Power Projects also and they will consider the cases of land oustees.

Subsequently, a memo is filed on behalf of respondent
Nos.5 and 6 before this Court, which reads thus.

> "In pursuance of the orders passed by the Hon'ble Court in WPMP No. 21844 of 2004 in W.P. No. 16722 of 2004, AP GENCO undertakes to follow G.O. Ms. No.98, dated 15.04.1986.
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> I submit that whenever the direct recruitment takes place in future in AP Power Generation Corporation subject to result of SLP (C) No. 14038 of 2004 in W.A. No.342 of 2003 filed by AP Power Generation Corporation the petitioner cases will be considered as per the seniority list prepared by the selection committee."

In view of the specific stand taken by the learned Advocate- General that G.O. Ms. No.98, dated 15.04.1986 is applicable to even Power Projects and in view of the memo filed by respondent Nos.5 and 6 undertaking that whenever direct recruitment takes place in APGENCO, the petitioners cases will be considered as per the seniority list prepared by the selection committee, learned counsel for the petitioners agreed to close the writ petition as well as the contempt case by placing the memo and submission of the learned Advocate-General on record.

Placing the memo filed by respondent Nos.5 and 6 and the submissions made by the learned Advocate-General on record as stated above, both the Writ Petition and the Contempt Case are closed. No costs.

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N.V. RAMANA, J.

Date: 17.04.2006

Nsr/Ksr